

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Corry Wendell Baker, #44287A,)	Case No.:6:18-1182
)	
)	
Petitioner,)	ORDER AND OPINION
)	
v.)	
)	
Family Court, Director of the)	
York County Detention Center,)	
)	
Respondents.)	
)	

This matter is before the Court on the Report and Recommendation (“R. & R.”) of the Magistrate Judge (Dkt. No. 8) recommending that this Court summarily dismiss Petitioner’s Section 2241 petition without prejudice. For the reasons set forth below, the Court adopts the R. & R. as the order of the Court.

I. Background and Relevant Facts

Petitioner Corry Wendell Baker, a detainee at the York County Detention Center, filed this action seeking a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner states that he was convicted of “child support” and that the Family Court imposed a sentence of six-months detention or payment of three thousand dollars. (Dkt. No. 1 at 2-3). Petitioner asserts three grounds for relief in the petition: (1) that he was not given a hearing, that he has never been before a judge, that he was not given a DNA test, and he has not signed any paperwork related to child support (*Id.* at 8); (2) that he was “told that this child support has been running since 1998[,] 19 years and [he] was not contacted” (*Id.*); and (3) that he has not been served with a warrant for child support (*Id.* at 9). Petitioner seeks release from custody, a hearing, a payment agreement, and a DNA test.

The Magistrate Judge explained in the R. & R. that this petition is subject to summary dismissal because: (1) Petitioner has failed to exhaust his state remedies (Dkt. No. 8 at 3); (2) Petitioner cannot appeal rulings, orders, or judgments from South Carolina family court to a federal district court pursuant to the Rooker-Feldman Doctrine, *see Davani v. Va. Dep't of Transport.*, 434 F.3d 712 (4th Cir. 2006), but rather must appeal them to a higher state court; and (3) to the extent Petitioner is asking this court to release him from confinement imposed due to his non-payment of child support or any contempt citation entered against him by the family court, such relief cannot be granted by this Court. *See Younger v. Harris*, 401 U.S. 37, 43–44 (1971).

II. Legal Standard

This Court liberally construes complaints filed by *pro se* litigants to allow the development of a potentially meritorious case. *See Cruz v. Beto*, 405 U.S. 319 (1972); *Haines v. Kerner*, 404 U.S. 519 (1972). The requirement of liberal construction does not mean that the Court can ignore a clear failure in the pleadings to allege facts which set forth a viable federal claim, nor can the Court assume the existence of a genuine issue of material fact where none exists. *See Weller v. Dep't of Social Services*, 901 F.2d 387 (4th Cir. 1990).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

III. Discussion

No party has filed objections to the R. & R., and the deadline to file objections has passed. In the absence of any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted). This Court finds that the Magistrate Judge has correctly applied the controlling law to the facts of this case.

IV. Conclusion

For the reasons set forth above, the Court adopts the R. & R. (Dkt. No. 8) as the order of the Court. Petitioner’s Section 2241 petition is dismissed without prejudice.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

May 22, 2018
Charleston, South Carolina